IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

Crl.MC.No. 3842 of 2006(U)

AGAINST THE ORDER DATED 12/10/2006 IN CRMP 5047/2006. IN CRA.815/2006 of SESSIONS COURT, ERNAKULAM

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PETITIONER:

U.A.KARUNAKARAN,
UNNEERIAKATH HOUSE, PALLIPURAM,
MUNAMBAM.

BY ADV. SRI.PRADEESH CHACKO

RESPONDENTS:

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1. LORD KRISHNA BANK LTD., NORTH PARAVUR,
REPRESENTED BY ITS MANAGER N.B.SABU.

2. STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, DISTRICT COURT,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3842 OF 2006

Dated this the 28th day of November, 2006.

ORDER

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I Act. He preferred an appeal. The appeal was admitted. Sentence was suspended subject to conditions inter alia that the petitioner must deposit an amount of Rs.1 lakh within a period of one month from 12.10.2006. The petitioner has not been able to deposit the amount. He has come to this Court complaining about the harshness of the condition imposed. If the impugned order is not set aside or modified, it would lead to the petitioner remaining in custody before his appeal is disposed of. A lenient view may be taken. The impugned order may be set aside or suitably modified, prays the learned counsel for the petitioner.

2. The cheque amount exceeds Rs.3 lakhs. There is no contention based on facts that the petitioner has a good case to be urged in appeal and therefore direction to deposit any part of the amount is improper or incorrect. In these circumstances, the impugned order cannot be held to be unsustainable or improper on merits. However I take note of the submission of the learned

counsel for the petitioner that the petitioner is facing grave financial crisis I direct that the petitioner shall have 45 days' further time from this date to make the payment. If the petitioner is unable to raise the amount, it shall, of course, be open to the petitioner to apply to the learned Sessions Judge for an out of turn expeditious disposal of the appeal, within a period of 45 days from the date of receipt of the application. The learned Sessions Judge shall dispose of the appeal expeditiously.

3. In the result, this Crl.M.C is, allowed in part, to the extent indicated above. I may hasten to observe that I have not intended to express any opinion on merits, which can influence the learned Sessions Judge while considering the disposal of the appeal.

R.BASANT
JUDGE

rtr/